

**REMARKS**

Applicants and the undersigned would like to thank the Examiner for his efforts in the examination of this application, and especially for the courtesy and helpfulness during the Examiner Interview. Reconsideration is respectfully requested.

**I. Rejection of Claims 4, 5, and 8-10 under 35 USC 102(b)**

The Examiner has agreed in the Examiner Interview that Claims 4, 5, and 8-10 do indeed distinguish over Bille et al. (U.S. Pat. No. 4,907,586).

As has been stated earlier, Bille '586 does not teach the physical spreading of the shot pattern in order to eliminate the plume effect. In fact, Bille '586 teaches that with ultrashort pulses the plume effect is negligible. In addition, Bille '586 states, at col. 5, lines 40-44, that "Although the duration 14 of each emission 10 is very short and will have a minimal effect on peripheral tissue, an apparently random firing order is established in order to insure the peripheral effects of the laser beam on tissue area 18 are, in fact, minimized." Further, at col. 5, lines 47-53, Bille '586 states that "the various spots 22 can be rectilinearly or curvilinearly arranged and that the quasi-continuous beam can thereby be used as a means for making an incision into the tissue. Since each emission 10 will have only minimal, if any, effect on peripheral tissue, the emissions 10 can be focused in a side-by-side manner when linear incisions are to be made in the tissue."

The invention as claimed recites the step of "spacing the center point of the first laser shot apart from the center point of the second laser shot so that any plume of ablated material caused by the first laser shot will not substantially interfere with the second laser shot's ablation of the corneal surface" [Claim 4, with analogous language in Claims 5 and 8-10]. Therefore, the pattern cannot be either "random" or "side-by-side".

Thus Claims 4, 5, and 8-10 are believed to patentably define over the cited art.

**II. Rejection of Claims 1-3, 6, and 7 under 35 USC 103(a)**

The Examiner has agreed in the Examiner Interview that Claims 1-3, 6, and 7 are not obvious under 35 USC 103(a) over Bille '586 in combination with Warner et al. (U.S. Pat. No. 4,903,695).

This rejection is respectfully traversed. Claim 1 recites the step of: "spacing the center point of each laser shot apart in time or distance from the center point of a previous laser shot so that any plume of ablated material caused by the previous laser shot will not substantially interfere with any subsequent laser shot's ablation of the corneal surface". Claim 2 recites the steps of: "spacing the center point of the first laser shot apart from the center point of the second laser shot so that any plume of ablated material caused by the first laser shot will not substantially interfere with the second laser shot's ablation of the corneal surface" and "spacing the center point of the third laser shot apart from the center points of the first laser shot and the second laser shot so that any plume of ablated material caused by the first laser shot or by the second laser shot will not substantially interfere with the third laser shot's ablation of the corneal surface". Claim 3 recites the step of: "spacing the center point of each laser shot apart in time or distance from the center point of a previous laser shot so that any plume of ablated material caused by the previous laser shot will not substantially interfere with any subsequent laser shot's ablation of the corneal surface". Claims 6 and 7 recite the step of: "spacing the first laser shot apart in time from the second laser shot so that any plume of ablated material caused by the first laser shot will not substantially interfere with the second laser shot's ablation of the corneal surface".

As stated above, Bille '586 does not teach the physical spreading of the shot pattern in order to eliminate the plume effect, but does teach an apparently random firing order or a focusing of emissions in a side-by-side manner when linear incisions are to be made in the tissue.

Therefore, it is believed that Claims 1-3, 6, and 7 patentably define over the cited art.

### **III. New Terminal Disclaimer and Associate Power of Attorney**

The Examiner, in a telephone conference held April 23, 2003, correctly pointed out that the originally filed Revocation contained an incorrect Registration Number for the undersigned.

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Therefore, a new Terminal Disclaimer and an Associate Power of Attorney naming the undersigned, signed by Carl Napolitano, are enclosed herewith.

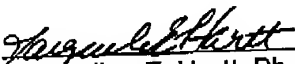
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**CONCLUSIONS**

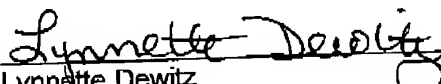
Applicants respectfully submit that the above remarks place this application in a condition for allowance, and passage to issue is respectfully solicited. The Applicants and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for reconsideration of the claims in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

  
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the foregoing is being delivered by facsimile transmission to Examiner David M. Shay, Group Art Unit 3739, fax number 1-703-746-3377, this 24<sup>th</sup> day of April, 2003.

  
Lynnette Dewitz